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#### REMARKS

New claim 52 has been added without adding new matter. Fourteen (14) claims remain pending in the application: Claims 13-25 and 52. Reconsideration of claims 13-25 and 52 in view of the amendments above and remarks below is respectfully requested.

Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Thomas F. Lebens at (805) 781-2865 so that such issues may be resolved as expeditiously as possible.

#### Examiner Interview

Applicants thank Examiner Thomson for participating in an Examiner interview on July 7, 2005 with Applicants' representative, Steven M. Freeland. Claim 16 and the finality of the rejection were discussed. Applicants' representative argued that the finality of the rejection was premature as the amendment to claim 16 simply put claim 16 into independent form, and thus no new limitations were added that would necessitate a new search or new grounds for rejection. However, claim 16 was rejected over newly cited art that Applicants have not have an opportunity to address.

Examiner Thomson alternatively argued that claim 16 did not include all of the limitations of intervening claims and thus was not the same claim. Therefore, the Examiner feels the finality is valid.

No agreement was reached.

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### Objection to the Specification

The Examiner has objected to the Specification as failing to provide proper antecedent basis for the claimed subject matter with respect to means for launching the plurality of projectiles. Applicant respectfully traverses this objection and the Specification as filed does provide antecedent basis for the claimed means for launching the plurality of projectiles. For example, the application as filed specifically recites on page 49, lines 8-13 (with emphasis added):

Quite advantageously, the projectile system of the present embodiment may be rapid fired, for example using a compressed air pistol, compressed air rifle, a fully automatic launcher, a dual-use modified PR24 police baton, a dual-use modified flashlight, a shotgun, and/or and other similar rapid fire devices.

The specification explicitly states structure and materials that can be employed as "means for launching a plurality of projectiles" as recited in pending claim 23. Further, the specification as filed includes at least FIGS. 37-39 depicting launching mechanisms that can launch a plurality of projectiles. Therefore, the application as filed explicitly "disclosed in the specification itself in a way that one skilled in the art will understand what structure (or material or act) will perform the recited function." (MPEP §2181(II)). Thus the specification provides the written description to support claiming a means for launching a plurality of projectiles.

Additionally, the application as filed describes and depicts devices for launching a plurality of projectiles in explicit detail that enables one skilled in the art to identify the structure to perform the recited function of launching a plurality of projectiles. One skilled in the art of non-lethal projectiles and/or projectile launchers would be able to easily

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identify one or more of at least a compressed air pistol, a compressed air rifle, a fully automatic launcher, a dual-use modified PR24 police baton, a dual-use modified flashlight, and/or a shotgun as specifically recited in the application as filed. Therefore, "one skilled in the art would be able to identify the structure, material or acts from the description in the specification for performing the recited function, [and as such] the requirements of 35 U.S.C. 112, second paragraph, are satisfied." (MPEP §2181 (III)).

Still further, Applicants previously amended the application without adding new matter to include three examples and accompanying descriptions of projectile launching devices capable of launching a plurality of projectiles. Therefore, the application includes additional support that explicitly discloses examples of structure that would be clear to one skilled in the art of the structure corresponding to the claimed means for launching a plurality of projectiles. Further, the application additionally incorporates by reference several U.S. patents and patent applications that describe devices for launching a plurality of projectiles.

Therefore, the application as filed (and as amended) explicitly discloses structure, material and/or acts that "one skilled in the art would be able to identify the structure, material or acts from the description in the specification for performing the recited function" and thus the application satisfies the requirements of 35 U.S.C. 112, second paragraph. (MPEP §2181(III)).

#### Rejection Under 35 U.S.C. §112

The Examiner has rejected claims 22-25 under 35 U.S.C. §112, first paragraph, suggesting the specification does not

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provide enablement for a means for launching the plurality of projectiles and launching at least a sub-set of projectiles within a limited time to contact a target along a path across the target. Applicants respectfully traverse these rejections. As demonstrated above, the application as filed specifically recites on page 49, lines 8-13:

Quite advantageously, the projectile system of the present embodiment may be rapid fired, for example using a compressed air pistol, compressed air rifle, a fully automatic launcher, a dual-use modified PR24 police baton, a dual-use modified flashlight, a shotgun, and/or and other similar rapid fire devices.

Further, the application as filed depicts means for launching a plurality of projectiles in FIGS. 37-39. Still further, Applicants previously amended the application without adding new matter to include figures 40-42 that depict still further examples of means for launching a plurality of projectiles as would be understood by one skilled in the art.

Additionally, the application as filed describes in detail the launching of a plurality of projectiles along a pattern across a target on at least pages 48 line 30 through page 52 line 17 in describing at least FIGS. 32-36. This portion of the application further describes the reaction of a human reacting within a limited time frame to being contacted by a projectile causing the target to bend into a cloud of inhibiting substance. The description of the launching apparatuses in combination with the described patterns of contact on a target and the description of the reaction of a human target to being struck by a non-lethal projectile is explicitly described and would enable one skilled in the art to be able to make and use the system as claimed.

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Still further, the description of the launching systems on at least page 49 in cooperation with the described projectile contact patterns and the reaction of a human provide such explicit descriptions to support claims 22-25 that substantially no amount of experimentation is needed to implement the claimed system. Therefore, the specification meets the test for enablement, see MPEP section 2164.01, because the "experimentation needed to practice the invention [is not] undue or unreasonable" as substantially no experimentation is needed to practice the claimed system. (MPEP §2164.01).

The specification specifically describes devices for launching at least a sub-set of a plurality of projectiles, e.g., a compressed air pistol, a fully automatic launcher, a shotgun and other devices (see page 49 of the application as filed). Further, the specification specifically depicts and describes a plurality of projectiles being launched along at least two different paths across the target (see at least pages 49-50 describing FIGS. 32 and 33). Still further, the application describes the claimed limited time at least with respect to the reaction of a human when contacted by a non-lethal projectile where "About simultaneously with dispersal of the contents 5004 of the capsule, the target 5000 begins to hunch towards the point of impact of the capsule" and "Within a matter of seconds, and as illustrated in FIG. 36, the target's head 5002 is essentially surrounded by the dispersing cloud of inhibiting and/or marking substance 5004." (Application as filed, page 51, lines 12-15 and 23-25). In the application as filed "there [is] considerable direction and guidance' in the specification; there [is] 'a high level of skill in the art at the time the application was filed;' and 'all of the methods needed to practice the invention'" are fully described in the

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specification. (MPEP §2164.01(a)). One skilled in the art would be able to implement the claimed system without undue experimentation as the claimed system is fully described. Therefore, the application as filed provides enablement for claims 22-25.

Claim Rejections Under 35 U.S.C. 102

The Examiner has rejected claim 16 under 35 U.S.C. §102(b) as anticipated by newly cited U.S. Patent No. 4,448,106 to Knapp. Applicants respectfully traverse this rejection. The Examiner suggests that the claimed limitations "stabilizing fins" and "additional stabilizers" are exactly the same thing. More specifically, the Examiner suggests that the claimed "stabilizing fins" are satisfied by fins 26 of the Knapp reference. The Examiner further suggests that the separate claimed element of "additional stabilizers" can also be equated to the same fins 26 of the Knapp reference, only two different fins. Therefore, the Examiner is equating the same element in Knapp (i.e., fins 26) to two different limitations of applicants claim, and thus effectively impermissibly reading one of the claimed limitations right out of claim 16.

Claim 16 recites two distinct claim elements, "stabilizing fins" and "additional stabilizers." By equating "additional stabilizers" to be equal to "fins", the Examiner has reduced claim 16 to read "stabilizing fins" and "stabilizing fins" instead of reading "stabilizing fins" and "additional stabilizers". It is clear from the claim and from the specification that the "additional stabilizers" are not stabilizer fins, otherwise the claim would only have to recite "stabilizer fins" instead of further reciting "additional stabilizers". By equating the "additional stabilizers" to fins

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already applied to other elements of the claim, the Examiner has impermissibly read the claim limitation right out of the claim.

Further, the Knapp reference does not teach or suggest "additional stabilizers" as recited in claim 16. The claimed "additional stabilizers" are not the same as the claimed "stabilizer fins". Therefore, the fins of the Knapp reference cannot be equated to both claim limitations of "stabilizing fins" and "additional stabilizers". The Knapp reference does not teach or suggest additional stabilizers as claimed. As such, the Knapp reference does not teach each element of claim 16. Therefore, claim 16 is not anticipated by the Knapp reference, and thus is in condition for allowance.

#### Claim Rejections Under 35 U.S.C. 103

The Examiner has rejected claims 13-25 as unpatentable over U.S. Patent No. 6,543,365 to Vasel et al. in view of U.S. Patent No. 5,361,700 to Carbone. Applicants respectfully traverse these rejections.

The Examiner in rejecting claim 13 suggests that Carbone teaches a propulsion block citing sealing disc (reference 9). Applicants respectfully submit that the Carbone reference does not teach at least the propulsion block as claimed. Specifically, the Examiner equates the sealing disc 9 of Carbone to the claimed propulsion block. The sealing disc 9, however, is not a propulsion block as claimed. No where does the Carbone reference suggest that the sealing disc 9 at least "evenly distribute the propulsion force to the projectile" as recited in claim 13. Instead, the Carbone only describes the sealing disc as "prevent[ing] the gas generated by the ignition of the powder from passing up or along the inner walls of the cartridge." (Carbone, col. 2, lines 30-33). There is no

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suggestion or teaching that the sealing disc 9 evenly distributes the propulsion force. Claim 13 specifically claims a propulsion block that evenly distributes the propulsion force, as well as maintains substantially all of a propulsion force behind the propulsion block. Therefore, the sealing disc 9 is not equivalent to the claimed propulsion block, and thus claim 13 and the claims that depend from claim 13 are not obvious over the applied references.

Claims 14-15 and 17-25 depend from claim 13. Therefore, claims 14-15 and 17-25 are also not obvious over the applied prior art due at least to their dependence on claim 13.

With regard to independent claim 16, the Examiner has again effectively read the claim limitation "additional stabilizers" right out of the claim by equating fins 26 to both separate limitations of "stabilizing fins" and "additional stabilizers". Equating "additional stabilizers" to previously claimed "stabilizing fins" impermissibly eliminates the limitation from the claim. The claimed "additional stabilizers" are different than the claimed "stabilizing fins". Neither the Vasei nor the Carbone references teach "additional stabilizers" as recited in claim 16, and thus claim 16 is not obvious over the applied references.

#### New Claim

Applicants have added new independent claim 52. None of the applied references or their combination teach or make claim 52 obvious. For example, neither the Vasei nor the Carbone references teach or suggest a three part projectile where the second part comprises a tapered male tongue that mates with a receiving port of the third part, where the third further



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includes fins. Therefore, claim 52 is not anticipated or obvious over the applied prior art.

Response to Examiner's Response to Arguments

The Examiner suggests that the Tougeron et al. reference describes "additional stabilizers." However, as Applicants have demonstrated above, claim 13 recites "stabilizing fins" and "additional stabilizers". By suggesting that two of four fins are equal to claimed "stabilizing fins" and the other two of four fins as "additional stabilizers" impermissibly reads one of Applicants claim limitations right out of the claim. The Examiner also argues that the braking surface of Tougeron could be equated to the claimed "additional stabilizers". However, the braking surface of the Tougeron reference cannot be equated to "additional stabilizers", and further the brake surface is only a single surface, and is not equal to the plural stabilizers as claimed.

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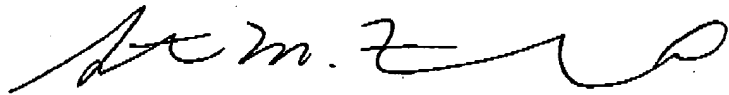
CONCLUSION

Applicants submit that the above amendments and remarks place the pending claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Respectfully submitted,

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